



# 中华人民共和国国家知识产权局

100037

北京市阜成门外大街2号万通新世界广场8层 中国国际贸易促进委员会专利商标事务所  
高青

发文日:

2010年05月25日



5090669

申请号或专利号: 200910132550.8

发文序号: 2010052000290320

申请人或专利权人: 奇胜系统集成控股有限公司

发明创造名称: 无线网络通信系统和协议

## 第一次审查意见通知书

1. ☒ 应申请人提出的实质审查请求, 根据专利法第 35 条第 1 款的规定, 国家知识产权局对上述发明专利申请进行实质审查。

☐ 根据专利法第 35 条第 2 款的规定, 国家知识产权局决定自行对上述发明专利申请进行审查。

2. ☒ 申请人要求以在:

AU 专利局的申请日 2003 年 08 月 08 日为优先权日。

☒ 申请人已经提交了经原受理机构证明的第一次提出的在先申请文件的副本。

☐ 申请人尚未提交经原受理机构证明的第一次提出的在先申请文件的副本, 根据专利法第 30 条的规定视为未要求优先权。

3. ☐ 经审查, 申请人于\_\_\_\_提交的修改文件, 不符合专利法实施细则第 51 条第 1 款的规定, 不予接受。

4. 审查针对的申请文件:

☒ 原始申请文件。 ☐ 分案申请递交日提交的文件。 ☐ 下列申请文件:

5. ☐ 本通知书是在未进行检索的情况下作出的。

☒ 本通知书是在进行了检索的情况下作出的。

☒ 本通知书引用下列对比文件(其编号在今后的审查过程中继续沿用):

编号	文件号或名称	公开日期 (或抵触申请的申请日)
1	CN 1184390A	19980610

6. 审查的结论性意见:

关于说明书:

☐ 申请的内容属于专利法第 5 条规定的不授予专利权的范围。

☐ 说明书不符合专利法第 26 条第 3 款的规定。

☐ 说明书不符合专利法第 33 条的规定。

☐ 说明书的撰写不符合专利法实施细则第 17 条的规定。

☐ \_\_\_\_\_



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纸件申请, 回函请寄: 100088 北京市海淀区蓟门桥西土城路 6 号 国家知识产权局专利局受理处收  
电子申请, 应当通过电子专利申请系统以电子文件形式提交相关文件。除另有规定外, 以纸件等其他形式提交的文件视为未提交。



# 中华人民共和国国家知识产权局

关于权利要求书:

- ☐ 权利要求\_\_\_\_\_不具备专利法第 2 条第 2 款的规定。
- ☐ 权利要求\_\_\_\_\_不具备专利法第 9 条第 1 款的规定。
- ☒ 权利要求 1, 2 不具备专利法第 22 条第 2 款规定的新颖性。
- ☒ 权利要求 3, 4 不具备专利法第 22 条第 3 款规定的创造性。
- ☐ 权利要求\_\_\_\_\_不具备专利法第 22 条第 4 款规定的实用性。
- ☐ 权利要求\_\_\_\_\_属于专利法第 25 条规定的不授予专利权的范围。
- ☐ 权利要求\_\_\_\_\_不符合专利法第 26 条第 4 款的规定。
- ☐ 权利要求\_\_\_\_\_不符合专利法第 31 条第 1 款的规定。
- ☐ 权利要求\_\_\_\_\_不符合专利法第 33 条的规定。
- ☐ 权利要求\_\_\_\_\_不符合专利法实施细则第 19 条的规定。
- ☐ 权利要求\_\_\_\_\_不符合专利法实施细则第 20 条的规定。
- ☐ 权利要求\_\_\_\_\_不符合专利法实施细则第 21 条的规定。
- ☐ 权利要求\_\_\_\_\_不符合专利法实施细则第 22 条的规定。
- ☐ \_\_\_\_\_
- ☐ 申请不符合专利法第 26 条第 5 款或者实施细则第 26 条的规定。
- ☐ 申请不符合专利法第 20 条第 1 款的规定。
- ☐ 分案申请不符合专利法实施细则第 43 条第 1 款的规定。

上述结论性意见的具体分析见本通知书的正文部分。

7. 基于上述结论性意见, 审查员认为:

- ☐ 申请人应当按照通知书正文部分提出的要求, 对申请文件进行修改。
- ☐ 申请人应当在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。
- ☒ 专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其申请将被驳回。
- ☐ \_\_\_\_\_

8. 申请人应注意下列事项:

- (1) 根据专利法第 37 条的规定, 申请人应在收到本通知之日起的 4 个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。
- (2) 申请人对其申请的修改应当符合专利法第 33 条的规定, 不得超出原说明书和权利要求书记载的范围, 同时申请人对专利申请文件进行的修改应当符合专利法实施细则第 51 条第 3 款的规定, 按照本通知书的要求进行修改。
- (3) 申请人的意见陈述书和/或修改文本应邮寄或递交国家知识产权局专利局受理处, 凡未邮寄或递交给受理处的文件不具备法律效力。
- (4) 未经预约, 申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。

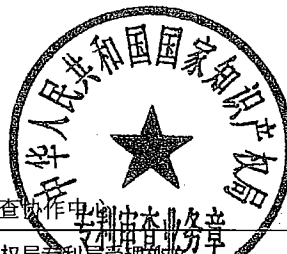
9. 本通知书正文部分共有 1 页, 并附有下列附件:

- ☐ 引用的对比文件的复印件共\_\_\_\_\_份\_\_\_\_\_页。
- ☐ \_\_\_\_\_

审查员: 张嘉凯

联系电话: 3338

审查部门: 专利审查协作中心



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纸件申请, 回函请寄: 100088 北京市海淀区蓟门桥西土城路 6 号 国家知识产权局专利局受理处  
电子申请, 应当通过电子专利申请系统以电子文件形式提交相关文件。除另有规定外, 以纸件等其他形式提交的文件视为未提交。



# 中华人民共和国国家知识产权局

## 第一次审查意见通知书

申请号:2009101325508

本通知书将引用下述对比文件:

1. 对比文件 1: CN1184390A, 公开日为 1998-6-10。

权利要求 1, 2 不具备专利法第 22 条第 2 款规定的新颖性, 3, 4 不具备专利法第 22 条第 3 款规定的创造性

权利要求 1 要求保护一种用于在数据时间帧中提供标记的方法。对比文件 1 公开了一种在以太网信息包中标志信息包的结束(相当于提供标记的下位概念)的方法, 并具体公开了如下技术特征(参见说明书第 5 页第 3 段, 第 14 页最后 1 段-第 15 页第 2 段、附图 8(b)): 分组交换设备 14 能够基于每个信息包中的目的地址(MAC 层)将它们发送至每个分配端口, 本领域技术人员可知, 此“信息包”由于位于 MAC 层(数据链路层的子层), 故实质上就是一种帧(在计算机网络中, 帧是数据链路层中的数据报的统称), 并且其电压随时间离散变化, 因此相当于权利要求 1 中的数据时间帧的下位概念, 图 8(b)描述标准以太网 3 电平曼彻斯特编码, 信息包(相当于编码数据序列)的结尾(相当于特殊点处的下位概念)通过保持两比特周期的高电压并后随 0 电压(相当于编码数据比特以提供各种状态的下位概念)来指示, 通过强迫电压归零来标注(相当于标记)信息包的结尾, 而本领域技术人员知道, 对于曼彻斯特编码来说“两比特周期的高电压并后随 0 电压”就是一种非法的状态组合。由此可见, 对比文件 1 已经公开了该权利要求的全部技术特征, 且对比文件 1 所公开的技术方案与该权利要求所要求保护的技术方案均属于数据编码的技术领域, 解决了同样的用于标记特殊位置的技术问题, 并能产生相同的技术效果, 因此该权利要求所要求保护的技术方案不具备新颖性。

权利要求 2 是权利要求 1 的从属权利要求, 其附加技术特征已在对比文件 1 中公开(参见同上), 所述编码是曼彻斯特编码。当其引用的权利要求 1 不具备新颖性时, 权利要求 2 也不具备新颖性。

权利要求 3 是权利要求 1 的从属权利要求, 其附加技术特征是权利要求 3 与对比文件 1 的区别技术特征, 但上述区别技术特征是本领域常用技术手段, 理由如下: 直流平衡是曼彻斯特码的优良属性, 在增加非法组合的标记后继续维持这种优良属性只是本领域技术人员的常规设计, 其效果也是本领域技术人员可以预料的。由此可知, 在对比文件 1 的基础上结合上述常用技术手段得出权利要求 3 所要求保护的技术方案, 对本领域的技术人员来说是显而易见的。当其引用的权利要求 1 不具备新颖性时, 权利要求 3 也不具备创造性。

权利要求 4 是权利要求 2 的从属权利要求, 在对比文件 1 中(参见同上), 通过保持两比特周期的高电压(相当于 ON, ON)并后随 0 电压来指示信息包结尾。虽然对比文件 1 中并未披露以 OFF, OFF 开始的状态, 但无论 ON, ON 还是 OFF, OFF 均是曼彻斯特码中的非法状态, 在对比文件 1 中已经披露了以 ON, ON 开始的情况下, 以 OFF, OFF 开始只是本领域技术人员的常规设计, 故当其引用的权利要求 2 不具备新颖性时, 从属权利要求 4 不具备创造性。

基于上述理由, 本申请的独立权利要求以及从属权利要求都不具备新颖性或创造性, 同时说明书中也没有记载其他任何可以授予专利权的实质性内容, 因而即使申请人对权利要求进行重新组合和/或根据说明书记载的内容作进一步的限定, 本申请也不具备被授予专利权的前景。如果申请人不能在本通知书规定的答复期限内提出表明本申请具有新颖性和创造性的充分理由, 本申请将被驳回。

审查员姓名: 张嘉凯

审查员代码: 194123



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纸件申请, 回函请寄: 100088 北京市海淀区蓟门桥西土城路 6 号 国家知识产权局专利局受理处  
电子申请, 应当通过电子专利申请系统以电子文件形式提交相关文件。除另有规定外, 以纸件等其他形式提交的文件视为未提交。

# STATE INTELLECTUAL PROPERTY OFFICE OF THE PEOPLE'S REPUBLIC OF CHINA

<b>CCPIT Patent and Trademark Law Office</b> <b>8th Floor, 2 Fuchengmenwai Street,</b> <b>Beijing 100037, China</b> <b><u>GAO QING</u></b>		Date of Notification: Day: <u>25</u> Month: <u>05</u> Year: <u>2010</u>
Application No. or Patent No.:	<u>200910132550.8</u>	
Applicant or Patentee:	<u>CLIPSAL INTEGRATED SYSTEMS PTY LTD.</u>	
Title of the Invention-Creation:	<u>RADIO NETWORK COMMUNICATION SYSTEM AND</u> <u>PROTOCOL</u>	

## Notification of the First Office Action

1. ☒ The SIPO conducts substantive examination on the application upon request of the applicant according to the provision of Article 35 paragraph 1 of the Patent Law.  
☐ The SIPO has decided to examine the application on its own initiative under Article 35 paragraph 2 of the Patent Law.
2. ☒ The applicant claimed priority/priorities based on the application(s):  
 filed in AU on Aug. 08, 2003, filed in \_\_\_\_\_ on \_\_\_\_\_,  
 filed in \_\_\_\_\_ on \_\_\_\_\_, filed in \_\_\_\_\_ on \_\_\_\_\_,  
 filed in \_\_\_\_\_ on \_\_\_\_\_, filed in \_\_\_\_\_ on \_\_\_\_\_,  
☒ The applicant has provided the priority documents certified by the Patent Office where the priority application(s) was/were filed.  
☐ The applicant has not provided the priority documents certified by the Patent Office where the priority application(s) was/were filed and therefore the priority claim(s) is/are deemed not to have been made under Article 30 of the Patent Law.
3. ☐ After examination, the amended documents submitted on \_\_\_\_\_ do not comply with Rule 51 paragraph 1 of the Implementing Regulations of the Patent Law, and thus cannot be accepted.
4. Examination as to substance was directed to:  
☒ the initial application documents as filed.  
☐ the documents filed on the date of submitting the divisional application.  
☐ the documents as specified below:
5. ☐ This Notification is issued without search reports.  
☒ This Notification is issued with consideration of the search results.  
☒ Below is/are the reference document(s) cited in this Office Action (the reference number(s) will be used throughout the examination procedure):

No.	Number(s) or Title(s) of Reference(s)	Date of Publication (or the filing date of conflicting application)
1	CN1184390A	<u>Jun. 10, 1996</u>

### 6. Conclusions of the Action:

- ☐ On the Description:
  - ☐ The subject matter contained in the application is not patentable under Article 5 of the Patent Law.
  - ☐ The description does not comply with Article 26 paragraph 3 of the Patent Law.
  - ☐ The description does not comply with Article 33 of the Patent Law.
  - ☐ The draft of the description does not comply with Rule 17 of the Implementing Regulations.
  - ☐
- ☐ On the Claims:
  - ☐ Claim(s) does/do not comply with Article 2 paragraph 2 of the Patent Law.
  - ☐ Claim(s) does/do not comply with Article 9 paragraph 1 of the Patent Law.
  - ☒ Claim(s) 1, 2 does/do not possess the novelty as required by Article 22 paragraph 2 of the Patent Law.

- ☒ Claim(s) 3, 4 does/do not possess the inventiveness as required by Article 22 paragraph 3 of the Patent Law.
- ☐ Claim(s) does/do not possess the practical applicability as required by Article 22 paragraph 4 of the Patent Law.
- ☐ Claim(s) is/are not patentable under Article 25 of the Patent Law.
- ☐ Claim(s) does/do not comply with Article 26 paragraph 4 of the Patent Law.
- ☐ Claim(s) does/do not comply with Article 31 paragraph 1 of the Patent Law.
- ☐ Claim(s) does/do not comply with Article 33 of the Patent Law.
- ☐ Claim(s) does/do not comply with the provisions of Rule 19 of the Implementing Regulations.
- ☐ Claim(s) does/do not comply with the provisions of Rule 20 of the Implementing Regulations.
- ☐ Claim(s) does/do not comply with the provisions of Rule 21 of the Implementing Regulations.
- ☐ Claim(s) does/do not comply with the provisions of Rule 22 of the Implementing Regulations.
- ☐
- ☐ The application does not comply with Article 26 paragraph 5 of the Patent Law or Rule 26 of the Implementing Regulations.
- ☐ The application does not comply with Article 20 paragraph 1 of the Patent Law.
- ☐ The divisional application does/do not comply with Rule 43 paragraph 1 of the Implementing Regulations.

Please refer to the text portion of the Office Action for details.

7. In view of the conclusions set forth above, the Examiner is of the opinion that:
- ☐ The applicant should make amendments as directed in the text portion of the Notification.
- ☐ The applicant should expound in the response reasons why the application is patentable and make amendments to the application where there are deficiencies as pointed out in the text portion of the Notification, otherwise, the application will not be allowed.
- ☒ The application contains no allowable invention, and therefore, if the applicant fails to submit sufficient reasons to prove that the application does have merits, it will be rejected.
- ☐
8. The followings should be taken into consideration by the applicant in making the response:
- (1) Under Article 37 of the Patent Law, the applicant should respond to the office action within 4 months counting from the date of receipt of the Notification. If, without any justified reason, the time limit is not met, the application shall be deemed to have been withdrawn.
- (2) Any amendments to the application may not go beyond the scope of the disclosure contained in the initial description and claims, as prescribed by Article 33 of the Patent Law, and should be made as required by the Notification, as prescribed by Rule 51 paragraph 3 of the Implementing Regulations.
- (3) The response to the Notification and/or revision of the application should be mailed to or handed over to the "Reception Division" of the Patent Office, and documents not mailed or handed over to the Reception Divisions have no legal effect.
- (4) Without an appointment, the applicant and/or his agent shall not interview with the Examiner in the Patent Office.
9. This Notification contains a text portion of 1 pages and the following attachments:
- ☐ 0 cited reference(s), totaling 0 pages.
- ☐

Examiner: Zhang Jiakai  
Telephone No.:

Examination Dept.

Patent  
Examination  
Cooperation  
Centre of  
SIPO

Seal of the Examination  
Department

210401 For application in written form, the corresponding documents shall be sent to: the Receiving Division of the Patent Office of SIPO, 6 Xi Tu Cheng Lu, Haidian, Beijing, 100088

2010.2 For application in electronic form, the corresponding documents shall be submitted in the form of electronic documents through the electronic patent application system. The corresponding documents submitted in other form than electronic documents shall be deemed not to have been submitted unless otherwise provided.

## **Text Portion of the Notification of the First Office Action**

This notification will cite the following reference document:

1. Reference 1: CN1184390A, which was published on June 10, 1998.

**Claims 1 and 2 do not possess novelty as required by Article 22.2 of the CPL, and Claims 3 and 4 do not possess inventiveness as required by Article 22.3 of the CPL.**

Claim 1 seeks to protect a method of providing a marker in a data time frame. Reference 1 discloses a method for marking an end of packet in an Ethernet packet (equivalent to a lower-level concept of "providing a marker"), and specifically discloses the following technical features (see page 5, paragraph 3, and page 14, the last paragraph-page 15, paragraph 2 of the description; and Fig. 8(b)): packet switching equipment 14 is capable of routing high-speed packets to each distribution port based on the destination address (MAC layer) inside each packet; thus those skilled in the art can learn that since the "packet" is located in the MAC layer (a sublayer of the data link layer), it is actually a kind of frame (in the computer network, a frame is a general term of datagram in the data link layer), and its voltage changes in discrete steps with time, and is therefore equivalent to a lower level concept of "data time frame" in Claim 1; Fig. 8(b) illustrates standard Ethernet three-level Manchester coding; the end (equivalent to a lower level concept of "a particular point") of packet (equivalent to "a data sequence") is indicated by remaining high for two bit periods, followed by zero voltage (equivalent to a lower level concept of "encoding data bits to provide states"); the end of packet is marked by enforcing the voltage return to zero (equivalent to "a marker"); those skilled in the art know that "remaining high for two bit periods, followed by zero voltage" is an illegal state combination for Manchester coding. It follows that, Reference 1 has disclosed all the technical features of Claim 1. Moreover, the technical solution disclosed by Reference 1 and the technical solution as claimed in Claim 1 both pertain to the same technical field of data encoding, solve the same technical problem of marking a particular location, and can produce the same technical effect. Therefore, the technical solution as claimed in Claim 1 does not possess novelty.

Claim 2 is a dependent claim of Claim 1. Its additional technical feature has been disclosed by Reference 1 (see page 5, paragraph 3, and page 14, the last

paragraph-page 15, paragraph 2 of the description; and Fig. 8(b)) as follows: the encoding is Manchester coding. Therefore, when Claim 1 referred to does not possess novelty, Claim 2 does not possess novelty, either.

Claim 3 is a dependent claim of Claim 1. Its additional technical feature is a distinguishing technical feature that Claim 3 differs from Reference 1. However, the above distinguishing technical feature is common technical means in the art for the following reasons: a dc balance is a fine attribute of the Manchester coding, and it is merely a customary design for those skilled in the art to continue to maintain the fine attribute after adding markers of the illegal combination, whose effect can also be anticipated by those skilled in the art. It follows that, it's obvious for those skilled in the art to obtain the technical solution as claimed in Claim 3 on the basis of Reference 1 in combination with the above common technical means. Therefore, when Claim 1 referred to does not possess novelty, Claim 3 does not possess inventiveness.

Claim 4 is a dependent claim of Claim 2. In Reference 1 (see page 5, paragraph 3, and page 14, the last paragraph-page 15, paragraph 2 of the description; and Fig. 8(b)), the end of packet is indicated by remaining high for two bit periods (equivalent to "ON, ON"), followed by zero voltage. Although Reference 1 does not disclose the state starting with OFF, OFF, both ON, ON and OFF, OFF are illegal states in the Manchester coding. In the case where Reference 1 has disclosed starting with ON, ON, starting with OFF, OFF is merely a customary design for those skilled in the art. Therefore, when Claim 2 referred to does not possess novelty, dependent Claim 4 does not possess inventiveness.

Due to the reasons above, all the independent claims and their dependent claims of the present application lack novelty or inventiveness. Meanwhile, the description does not recite any other patentable substantive content. Therefore, even if the applicant recombines and/or further defines the claims in accordance with the description, the present application still has no prospects to be granted a patent right. If the applicant fails to present sufficient reasons why the present application possesses novelty and inventiveness within the time limit as specified in this notification, **the present application will be rejected.**

The examiner: Zhang Jiakai

Code: 194123